2010–11 ANNUAL REPORT

Honourable Yvonne Fritz
Minister of Children and Youth Services
Executive Branch
228 Legislature Building
10800–97 Avenue NW
Edmonton, Alberta T5K 2B6

Dear Minister:

I am pleased to present you with the annual report of the Child and Youth Advocate. This report covers the fiscal year ending March 31, 2011.

Yours sincerely,

Del Graff
Child and Youth Advocate

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Child & YOUTH ADVOCATE'S COMMENTS

This has been a year for change for the Office of the Child and Youth Advocate in Alberta. John Mould, the Child and Youth Advocate since 2001, retired in November 2010. John had worked for the Office of the Child and Youth Advocate since its inception in 1989 and he had been in the Alberta Public Service for over 42 years. His contributions over that time were immeasurable, and he will be missed. Linda Golding, Senior Manager of Advocacy, acted as the Child and Youth Advocate from the time of John's departure until the end of this reporting year.

As the newly appointed Child and Youth Advocate, I am taking the opportunity to look at the situation in Alberta and think about the path forward. I am gathering information, and thinking about where we may need to go in the future. There has been much attention on individual advocacy, and Alberta has a positive reputation for the advocacy services provided to individual young people. I want to ensure there is a balance between individual and systemic advocacy work, both of which benefit young people receiving services from the Ministry of Children and Youth Services (the Ministry).

In this annual report, I provide an overview of the Office of the Child and Youth Advocate and describe what our purpose is, what we do, and how we are organized to accomplish that work. I comment on a number of initiatives I believe are important to highlight from the past year. I identify a number of areas where significant progress has been made in our work, largely due to the tremendous talent of the staff in the office and the partnerships they have created with stakeholders throughout the province. I also provide an update about activities in the past year related to a number of systemic issues that we identified in past annual reports. Finally, I will identify three systemic issues that require further attention and what can be done to address them.

The Business of the Child and Youth Advocate

Our Vision

To be a champion for child and youth rights; to amplify child and youth voices; to enable child and youth participation.

Our Mission

* To keep young people's interests at the centre of the decision-making process.
* To provide autonomous, expert advice to the Minister, which will assist in producing good outcomes for children and youth.

Our Strategic Priority

To strengthen outcomes for children and youth through four core business areas:

1. **Individual Advocacy** – Providing individual children and youth served under the *Child, Youth and Family Enhancement Act* and the *Protection of Sexually Exploited Children Act* supports to ensure their rights, interests, and viewpoints are considered when decisions are made about them

2. **Systemic Advocacy** – Advising the Minister on matters relating to the welfare and interests of children who receive services under the *Child, Youth and Family Enhancement Act* and the *Protection of Sexually Exploited Children Act*

3. **Advocacy Supports** – Supporting a system where advocacy exists throughout the continuum of services provided to children and youth

4. **Legal Representation** – Appointing lawyers to represent children and youth who are receiving intervention services under the *Child, Youth and Family Enhancement Act* or services under the *Protection of Sexually Exploited Children Act* with regard to matters under those acts

Our Offices

Our offices are located in Edmonton and Calgary to provide advocacy services to children and youth throughout the province. Legal Representation for Children and Youth (LRCY) throughout the province is provided from Edmonton, and the Child and Youth Advocate's provincial office is also located in Edmonton.

First Nations, Métis, and Inuit Children and Youth

In the 2009–10 annual report, John Mould described the difficult circumstances faced by First Nations, Métis, and Inuit children and youth in this country and particularly in Alberta. He confirmed long-standing challenges and limited progress with respect to the government's delivery of Ministry services for First Nations, Métis, and Inuit people. Further, he identified structural issues that have contributed to significant disparity in the proportion of Aboriginal children in government care when compared to the general population. Finally, he suggested that it would be beneficial for all concerned to take a step back, to identify the barriers that have prevented goal achievement for Ministry services with respect to Aboriginal people, and to chart a new course that will overcome those barriers.

The challenges and needs of Aboriginal young people involved with Ministry services are long-standing, and Alberta is one of many provinces where there is a need to address issues that are complex and difficult to resolve. To date, although there has been significant effort and activity by the Ministry with Aboriginal stakeholders to address these challenges, the disproportionate number of Aboriginal young people "in Ministry care"[1] continues to increase. There is an urgent need to take action that produces concrete results for Aboriginal young people. We are identifying the disproportionate numbers of Aboriginal young people involved in Ministry care as a significant issue in this annual report.

1 Children who are in need of intervention and have one of the following legal statuses: Emergency Apprehension; Apprehension Order; Custody Order; Interim Custody Order; Temporary Guardianship Order; Custody Agreement with Youth; Custody Agreement with Guardian; Permanent Guardianship Agreement; or Permanent Guardianship Order

Outcomes for Children and Youth

For some time, the Office of the Child and Youth Advocate has collected information from young people we serve through advocacy and through LRCY. To date, this information has been about the process of advocacy and the young person's experience with advocates or with lawyers. Although this feedback has been helpful, we see opportunities for improvement and we are considering ways to increase our understanding of the outcomes for young people we serve.

The National Child Welfare Outcome Indicator Matrix (NOM)[2] is a way to understand and track outcomes for children and families involved with Ministry services. Four areas, known as domains, have been determined as "priority" indicators as to how children are faring in different aspects of their lives. These areas are: 1) safety, 2) well-being, 3) permanence, and 4) family and community supports. Each of these domains has a subset of indicators that provide additional ways to determine outcomes and well-being. In the coming year, we want to consider using the NOM domains to focus more attention on the results achieved for young people involved with the Office of the Child and Youth Advocate's services.

2 Trocme, N. MacLaurin, B. Fallon, B. Shlonky, A. Mulcahy, M. and Esposito, T. (2009). "National Child Welfare Outcomes Indicator Matrix".

Office HIGHLIGHTS

BUDGET

The office spent a total of $7.33 million to support services and operations. Expenditures were up $100,000 over the previous fiscal year, attributable to increased costs for legal representation provided to young people.

COMMUNICATIONS INITIATIVE

The office continued its efforts this fiscal year to establish a new visual identity by updating and refreshing information on the Office of the Child and Youth Advocate's website. The website includes a section called "Information for Young People". Information about our services is available here, as is other information that may be of interest to young people receiving child intervention services.

say specialized advocacy for youngPeople	Say appears on the home page.
PERSONAL say specialized advocacy for youngPeople	Personal Say appears on the pages pertaining to advocacy services.
LEGAL say specialized advocacy for youngPeople	Legal Say appears on the pages pertaining to legal representation for children and youth.

The website continues to be a primary source of information for roster lawyers appointed by Legal Representation for Children and Youth (LRCY) to provide legal representation for young people. Up-to-date policy information and other items of interest to lawyers are posted.

INFORMATION SYSTEMS SUPPORT

With the assistance of the Ministry's Information Strategies Branch, the office began building an information system to support LRCY. The information system will support all facets of the business, including roster management, applications for service, offers and appointments, payment for legal services, and reporting.

ACCESS TO INFORMATION REQUESTS

The Child and Youth Advocate received four access to information requests during this fiscal year. Three of the requests were personal and one was general. Personal information requests pertain to client records created in the course of providing advocacy or legal appointment services to children and youth. General information requests pertain to information collected by the Office of the Child and Youth Advocate that is not specific to an individual served by the office.

advocacy services

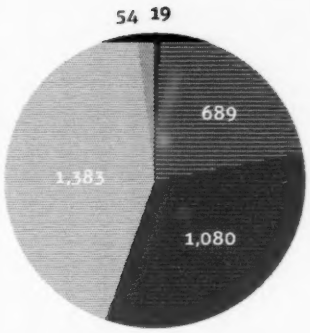
Advocacy Services is responsible for representing the rights, interests, and viewpoints of young people who come to the Child and Youth Advocate's attention and who are receiving services under the *Child, Youth and Family Enhancement Act* (*Enhancement Act*) or the *Protection of Sexually Exploited Children Act* (*PSECA*).

STATISTICS

The following charts highlight the number of young people served, their demographic characteristics, and how these young people were referred to the Office of the Child and Youth Advocate. Referrals to Advocacy Services increased by 4% over this reporting year. The two largest referral categories are "third party"—a foster parent, parent, or another professional involved with the young person—and "mandatory notification".[3]

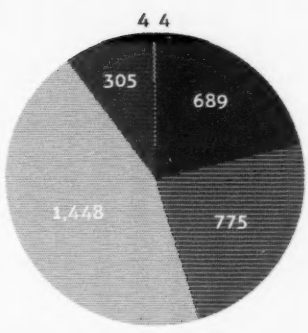
Information about the young people is collected from the Ministry of Children and Youth Services database, the Child Youth Information Module (CYIM). The majority of young people served by the Office of the Child and Youth Advocate are aged 12–17 and identify as either Aboriginal or Caucasian. The Aboriginal population of children served by the Office has grown by 11% over the previous reporting year.

3 Caseworkers are required to notify the Office of the Child and Youth Advocate via mandatory notification in any of the following four situations related to the child or youth: 1) allegation of abuse in care, 2) competing points of view, 3) unmet needs, or 4) youth disagrees with a significant decision.



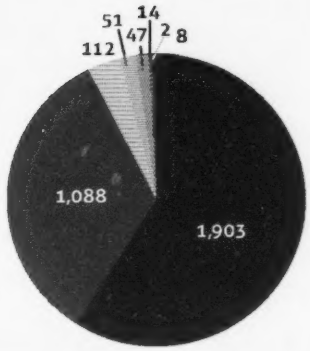
REFERRAL SOURCES

- Anonymous
- Third party
- Self-referral
- Own motion [4]
- Mandatory notification



AGES OF CHILDREN SERVED

- 0–5 years
- 6–11 years
- 12–17 years
- 18–21 years
- Over 21 years
- Unknown



RACIAL ORIGIN OF CHILDREN SERVED

- Aboriginal [5]
- Caucasian
- Mixed race
- Black
- Unknown
- Asian
- East Indian
- Value not selected

4 "Own motion" referrals are those initiated by the Office of the Child and Youth Advocate.

5 "Aboriginal" includes people identified as Inuit, Métis, "non-status", "potential to be registered", "status Indian", and "unknown".

Quarterly Reports

The Child and Youth Advocate produces quarterly reports as required by section 3(3)(f) of the *Child, Youth and Family Enhancement Act*. These reports are part of the communication between the Child and Youth Advocate and individual delegated agencies and authorities.

The issues identified in the reports are being addressed through day-to-day problem-solving. The reports provide senior management in agencies and authorities with an indication of the type and range of concerns in their jurisdiction for which young people, or someone on their behalf, are requesting Advocate service.

The Office of the Child and Youth Advocate becomes involved with young people when they or others on their behalf come forward because they believe that an advocate would be beneficial. Each year, the Office of the Child and Youth Advocate interacts with only a small portion of the total number of young people receiving services from the Ministry of Children and Youth Services (the Ministry). Advocacy support is done based on issues identified by the young person. When young people are unable to identify an issue (due to age or other circumstances such as developmental disabilities), advocates identify issues based on what they are told by the referral source and on additional information they gather. To track these issues in terms of frequency and type, the Office of the Child and Youth Advocate uses a classification system of broad major issues (education, legal, permanency planning, etc.). Within each major issue, a number of minor issue statements are noted that further define the nature of the issues.

Quarterly reports can be found at www.advocate.gov.ab.ca.

Youth Feedback Survey

The Office of the Child and Youth Advocate is committed to giving young people the opportunity to provide feedback about advocacy services they receive. Every youth age 12 or older is given the opportunity to complete the Youth Feedback Survey, except when the young person's capacity to understand the questionnaire is limited or when the young person cannot be located. Information provided gives

the Office of the Child and Youth Advocate a snapshot of the experience of young people and is used to enhance the quality of advocacy policies, procedures, and practice.

This past year, the survey was modified to increase the level of inclusivity in the language and allow young people to self-identify such categories as gender. To increase accessibility for young people a key contact is now provided for those who require assistance or choose to complete the survey via telephone.

In 2011–12, the Office of the Child and Youth Advocate is launching an online survey. In future, the survey will look at experiences of advocacy, as well as the impact of advocacy identified by young people, using National Child Welfare Outcome Indicator Matrix information.

Advocacy 101: The Basics and Beyond

In response to recommendations by the *Review of Child and Youth Advocacy in Alberta*, April 2009, to provide training to professionals working with children in care, the Office of the Child and Youth Advocate hosted two workshops in February 2011.

The workshops, titled Advocacy 101: The Basics and Beyond, were held in Edmonton and Calgary. Participants heard from keynote speaker Margot Herbert, who discussed the importance of advocacy in day-to-day practice and how advocacy can be a state of mind. This was followed by a practical, hands-on, introductory session titled Advocacy: Beyond the Basics. In the afternoon, participants chose from two presentations: 1) Community Advocacy and 2) Rural and Indigenous Advocacy. The Office's advocates and community partners facilitated the sessions. The workshops concluded with a panel of youth who were involved with the Ministry discussing their experiences of advocacy.

In 2011–12, the Office of the Child and Youth Advocate will facilitate five workshops across the province in locations that include urban, rural, and First Nations communities.

To read participant comments, please visit our website at www.advocate.gov.ab.ca.

Procedural Rights Booklets

The Office of the Child and Youth Advocate worked in partnership with the Ministry of Children and Youth Services (the Ministry) to revise the procedural rights booklet used by the Ministry. This collaborative project provided an opportunity for the Office of the Child and Youth Advocate to help the Ministry develop material that highlights the importance of informing children and youth about their rights. Two separate booklets, designed for children 11 years old and younger and youth ages 12 and older respectively, were created. The booklets are excellent tools for those working with young people receiving Ministry services.

The goal of the project was to create a resource that could be easily used by caseworkers and others when explaining rights to all young people. Focus groups were held with children, youth, and caseworkers to ensure the booklets would indeed be useful to both caseworkers and children and youth.

Standards for Individual Advocacy Practice

The process for developing and measuring individual advocacy standards began in 2008 and has evolved over the past two years. It is a key quality-assurance tool. In 2010–11, the Office of the Child and Youth Advocate measured 10 advocacy standards and all eligible files from April 1, 2010, through February 10, 2011. The reviewers were external to the Office of the Child and Youth Advocate.

The goal of developing and measuring advocacy standards is to increase consistency of practice across the province and improve services to young people. The standards of practice reflect the values and beliefs of the Office of the Child and Youth Advocate and include such things as responsiveness to referrals, face-to-face contact and involvement of children and youth in advocacy efforts, timely services, and accurate and appropriate documentation as well as adherence to policy.

THE FOLLOWING IS A SUMMARY OF THE STANDARDS, COMPLIANCE TARGETS, AND RESULTS ACHIEVED.

STANDARD	COMPLIANCE TARGET	RESULT ACHIEVED
All referrals will be responded to within 2 working days.	90%	99%
If a decision is made to provide advocacy support, there will be at least 1 face-to-face contact.	80%	82%
Information gathering is initiated within 7 working days of a case being assigned.	85%	95%
Information gathering is completed within 30 working days of case assignment.	85%	87%
The rationale for the decision to terminate involvement or provide advocacy services after information is gathered is documented in the file.	100%	Closed files 97% Opened files 93%
The decision about whether advocacy will be instructed or uninstructed will be documented in the file.	100%	93%
The decision about whether advocacy will be instructed or uninstructed is consistent with Office of the Child and Youth Advocate policy.	80%	90%
When a case proceeds to active advocacy, an advocacy plan is developed within 15 days for instructed[6] cases and 30 days for uninstructed[7] cases.	80%	Instructed 84% Uninstructed 78%
If the advocacy is instructed, the child or youth will be involved with the plan.	90%	99%
No files will be without recorded activity for more than 60 working days.	80%	95%

SYSTEMIC ISSUES REPORTING

Systemic issues are most commonly identified through individual case advocacy. By pooling commonalities and themes, the Office of the Child and Youth Advocate can identify and assess the issues around how young people experience the services they receive. These experiences are communicated to those responsible in the service-delivery system so that they can refine policy and enhance practice.

The 2008–09 annual report began a new format for reporting systemic issues. Each systemic issue was identified as new or ongoing. The 2009–10 annual report built on this format and organized the information into:

* A context for the issues identified—how the issue came to our attention,
* The information gathering done to establish that the matter is a systemic issue,
* Why the issue is important to young people,
* What follow-up has been initiated, and
* Our view about what needs to be done to address the issue.

Ongoing systemic issues include the Ministry's response to the issue, the Child and Youth Advocate's response, and an updated recommendation for resolution. It also indicates whether or not progress has been made or the issue has been resolved. This format provides the opportunity to highlight the dialogue between the Child and Youth Advocate and the Ministry, in an effort to improve services provided to children and youth.

This year's report provides information and updates on the two standing systemic issues: "permanency for young people in permanent care" and "placements for young people in care," which were identified in previous years. The 2009–10 report identified that due to the fundamental importance of educational achievement, school completion is now the third standing systemic issue.

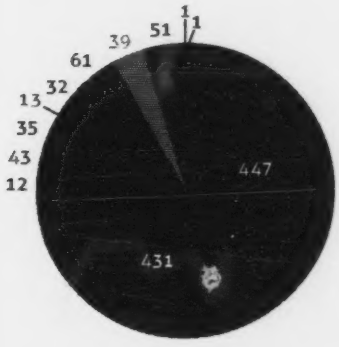
6 Instructed advocacy; the young person is able to describe what is working for him/her and what is not working for him/her and to participate in the advocacy effort.
7 Uninstructed advocacy; the young person has a limiting condition (e.g. child is preverbal) that precludes him/her from directing the advocacy efforts.

Legal Representation for Children and Youth

(LRCY)

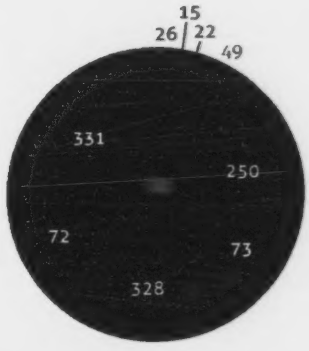
Legal Representation for Children and Youth (LRCY) is responsible for appointing lawyers to represent children for matters under the *Child, Youth and Family Enhancement Act* (*Enhancement Act*) and under the *Protection of Sexually Exploited Children Act* (*PSECA*). On occasion, representation is provided to young people for matters under other pieces of legislation if the young person has status under the *Enhancement Act*.

STATISTICS



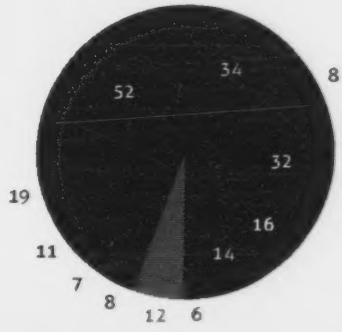
APPOINTMENTS BY COURT LOCATION

- Calgary
- Drumheller
- Edmonton
- Fort McMurray
- Grande Prairie
- Lethbridge
- Medicine Hat
- Peace River
- Red Deer
- St. Paul
- Wetaskiwin
- Other



APPOINTMENTS BY COURT MATTER TYPE

- Access under PGO[8]
- Appeal panel
- Appeals to court
- Other[9]
- PGO
- *PSECA/PChIP*[10]
- Secure services
- Supervision Order
- TGO[11]



SNAPSHOT OF LAWYER AVAILABILITY

- Calgary
- Drumheller
- Edmonton
- Fort McMurray
- Grande Prairie
- Lethbridge Region
- Medicine Hat Region
- Peace River Region
- Red Deer Region
- St. Paul Region
- Wetaskiwin
- Cities outside preferred areas

8 PGO refers to "Permanent Guardianship Order".

9 "Other" includes: 1) guardianship applications under the *Family Law Act* for children with permanent guardianship status, and 2) applications regarding a youth's child (when the youth has *Enhancement Act* status).

10 *PSECA* legislation was formerly known as *Protection of Children Involved in Prostitution* (*PChIP*).

11 TGO refers to "Temporary Guardianship Order".

Youth Feedback

In 2009, LRCY established a process for obtaining youth feedback through a telephone survey called the LRCY Youth Feedback Questionnaire. After a lawyer submits a final invoice for an appointment for a youth who is 12 years and older, LRCY confirms that the youth does not have any cognitive or developmental delays that might prevent them from understanding and answering the questions. Three attempts are then made to contact the youth at varying times of day.

Over the past year, LRCY attempted to contact 323 youth and were successful in interviewing 100 youth about their experiences with 42 roster lawyers.

Overall, the feedback was positive and youth were happy with the legal representation they received. Generally they liked their lawyers and felt that having legal representation gave them a voice in the legal matter that was before the court. The only concern raised by some youth was that they would have liked more contact with the lawyer. Some of the comments received were:

* My lawyer helped me understand the legal forms; he explained them to me in a way I could understand.
* If I need a lawyer again I would want the same lawyer to represent me.
* My lawyer was a perfect legal advocate. She explained things and kept me well informed.
* Having a lawyer was often the bridge between my social worker and me. If he doesn't know the answer to something he finds out and gets back to me.
* I would have liked more meetings with my lawyer.

All feedback received from young people is shared with roster lawyers in a way that ensures the young people remain anonymous.

Lawyer Training

In 2010, roster lawyers were required to attend a mandatory half-day session on the role of counsel in the representation of children, where LRCY established guidelines on the role of counsel. Eight sessions were offered in Calgary, Edmonton, Lethbridge, and Red Deer.

A brown-bag lunch series was offered in Calgary and Edmonton for the second year. Cheryl Arcand-Kootenay and Leslie Sax, roster lawyers in Edmonton, and Julie Hart and Rupert Joshi, roster lawyers in Calgary, facilitated the series. These noon-hour sessions provided an opportunity for roster lawyers to network and discuss current relevant case law.

In addition, at the request of roster lawyers, half-day sessions were offered in Calgary and Edmonton on the *Protection Against Family Violence Act*, the Child Intervention Appeal Panel, and mental health issues for children and youth.

In total, LRCY offered 12 educational sessions for lawyers in 2010; total attendance at these sessions was 116.

Service Standards for Lawyers

LRCY has established service standards for roster lawyers in six areas:

* Contact with child-clients
* Gathering information
* Representing the child-client's views in court
* Attending hearings
* Advising child-clients of their procedural rights
* Invoicing/case reporting

Each roster lawyer's practice is monitored for compliance with the *LRCY Service Standards* through a quality assurance review. Lawyers have their first review after one year on the LRCY roster; thereafter, a review is conducted every two years.

Over the past year, compliance with the standards related to client contact, attendance at hearings, and information-gathering has remained relatively static. The compliance rate for face-to-face contact prior to submissions being made to the court has remained the same: 89%. There was a small improvement in post-court contact, from 72% to 74%. LRCY would like to see an overall compliance rate of 95% related to client contact. Reporting related to information gathering and attendance at court continues to reflect 99%–100% compliance. Generally, there has been an increase in compliance with the invoicing standard.

Standards that continue to have low compliance are those related to ensuring that children and youth are aware of their procedural rights and advising the court of the child's/youth's views and preferences. Lawyers often indicate that they are meeting these standards but they are simply not documenting their actions. This is not adequate, and work is underway to improve compliance with these standards.

Lawyers have indicated that they recognize the importance of the *LRCY Service Standards*. They like the quality-assurance process and have incorporated feedback that they have received into their practice and reporting.

Overall, LRCY roster lawyers express pride about representing children and youth and say that they appreciate the implications of providing good legal representation to this vulnerable population.

LRCY Conference in September 2011

LRCY is hosting a conference titled "Best Practices in Child Legal Representation", to be held September 14–16 at The Banff Centre. This will be an exciting opportunity for learning, sharing, and networking in this developing area of legal practice. The goal of the conference is to further develop and improve child legal representation practices.

Canada officially recognizes that children are persons with rights. The Office of the Child and Youth Advocate believes that children should have a voice in matters that concern them. Further, abused and neglected children are the most vulnerable, and individuals who represent them have the important task of ensuring that their voices, rights, and interests are recognized. This task can become complicated by a child's limited abilities and the values and views of the adults around them.

Experts in the field will lead discussions on current issues to hear about new ideas of practice and to learn from other jurisdictions. The conference will give an opportunity to reflect and develop new plans for practice, and ultimately to provide better outcomes for children and youth.

The conference is intended for lawyers, social workers, members of the judiciary, advocates, and other professionals who work with children and youth.

The following noted experts will speak at the conference:

- Dr. Bruce Perry, internationally recognized clinician and researcher in children's mental health and the neurosciences. He has published two books on the impact of maltreatment on young children.
- Donald Duquette, clinical professor of law at the University of Michigan Law School. In 1976, he founded the Child Advocacy Law Clinic, the oldest such clinic in the U.S., and he is a published author in this field.
- Nicholas Bala, professor at the Faculty of Law at Queen's University. He has written extensively on issues related to children and families involved in the justice system. His research has often been cited by all levels of court in Canada.
- Amanda Donnelly, managing attorney at the National Association of Counsel for Children (NACC) in Denver, Colorado.

To read participants' comments, please visit our website at www.gov.ab.ca/lrcy.

systemic ISSUES

Part 1 of the Systemic Issues section of this report focuses on three standing issues: "permanency for young people in permanent care", "placement for young people in care", and "school completion".

PART 1 – STANDING SYSTEMIC ISSUES

Permanency for Young People in Permanent Care

One of the first requirements when working with young people is creating a meaningful plan for permanency. The intention of achieving permanency is to give young people the ability to develop continuous relationships with those around them, and the feeling that they will be living with the same people for an extended period of time. In the Enhancement Act Policy Manual, the overarching goal of permanency is to "cultivate a sense of belonging in each child", utilizing the cornerstones of "enduring relationships and stable placements".[12]

When a Permanent Guardianship Order (PGO) is granted with respect to a young person terminating the custody and guardianship rights of the guardian, the young person requires a sense of permanency. Many young people may never achieve permanency through the avenues that offer the highest likelihood of permanency, such as adoption or private guardianship. For those who are in care of the Ministry of Children and Youth Services (the Ministry), the Director is responsible for finding ways in which to build a sense of permanence and belonging. Long-term foster- and kinship-care-placement options are often used to achieve a feeling of permanency derived from a stable placement. But due to a variety of circumstances, some young people are unable to live in a family-based foster- or kinship-care environment.

Young people who are in Ministry care and who are not living in a long-term foster home or kinship placement experience the same need for stability, continuity of care, and relationships as their peers. These young people often experience multiple placements, are more likely to have short-term relationships, and can experience a reduced sense of belonging.

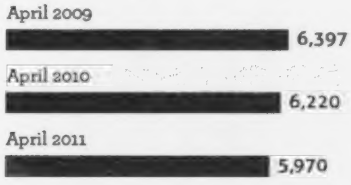
The Child and Youth Advocate has been reporting on permanency since the 2001–02 annual report, and permanency has been a consistent focus for individual and systemic advocacy. While there is evidence that the Ministry has placed emphasis on permanency, this issue continues to be a challenge faced by this and other jurisdictions across the country. Despite these efforts, the issue remains that too many young people are not achieving a sense of permanency in their lives. The Child and Youth Advocate reports on permanency for young people in care to highlight how many of them are in permanent care and what is happening to address their specific needs. We hope to see improved permanency for young people.

The following information on permanency has been provided by the Ministry of Children and Youth Services. The tables are self-explanatory and compare numbers across the 2008–09, 2009–10, and 2010–11 reporting years.

12 Quoted in part from *Children and Youth Services Enhancement Act* Policy Manual, section 7.6.

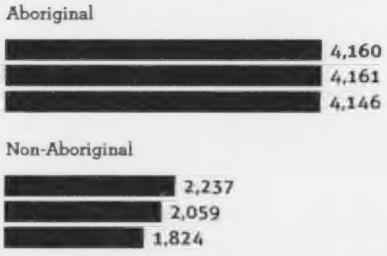
NUMBER OF CHILDREN/YOUTH IN PERMANENT CARE

Total per year



Total by age, per year:

Total by racial status, per year:



Total by placement type, per year:

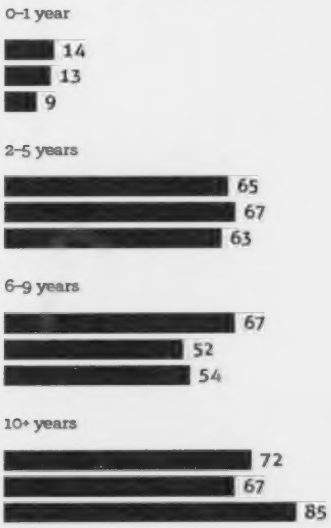
13 "Family care" includes children/youth placed with extended family, in parental care, or with significant others.
14 "Permanency placement" refers to the placement of the child/youth in their permanent home prior to the adoption or Private Guardianship Order being granted.
15 "Other" placement types include those in a placement related to their health needs, in secure services, in a youth justice facility, in a *PSECA* facility, or who are not currently placed.

NUMBER OF CHILDREN/YOUTH IN PERMANENT CARE WITH PRIVATE GUARDIANSHIP ORDERS GRANTED

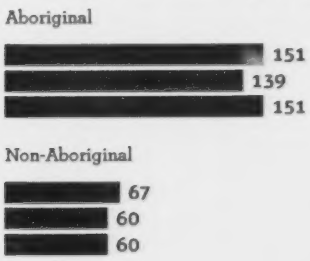
(for PGOs and PGAs[16] only)

Total per year:

Total by age, per year:

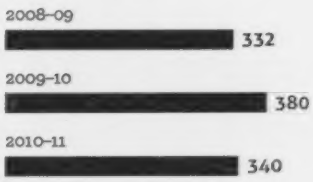


Total by racial status, per year:

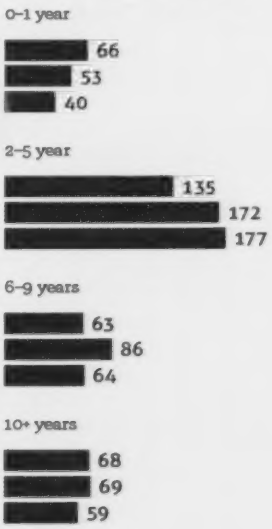


NUMBER OF CHILDREN/YOUTH WITH ADOPTION ORDERS GRANTED

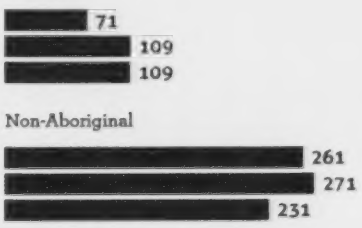
Total per year:



Total by age, per year:



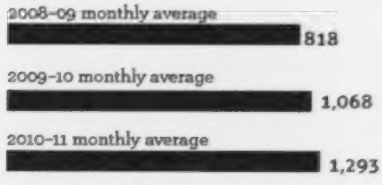
Total by racial status, per year:



16 "PGA" refers to Permanent Guardianship Agreement.

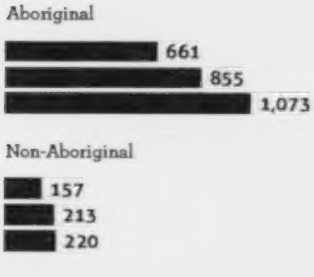
NUMBER OF CHILDREN/YOUTH IN PERMANENT CARE WITH FOSTER CARE AS THEIR PERMANENCY OBJECTIVE

Total per year:



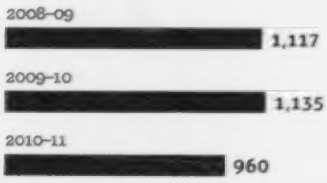
Monthly average by age, per year:

Monthly average by racial status, per year:



NUMBER OF CHILDREN/YOUTH THAT ENTERED PERMANENT CARE IN 2010–11 *(i.e., they either had Permanent Guardianship Orders granted or their parents entered into Permanent Guardianship Agreements)*

Total per year:



The preceding information from the Ministry provides a snapshot of permanency for young people across Alberta. This snapshot indicates that there have been few significant changes for young people in terms of permanency over the past three reporting years. Overall, the number of young people entering permanent care is decreasing, particularly for those aged 13–15 years. The numbers of young people in foster care and residential care has also decreased. The number of young people with foster care as their permanency objective has increased; this is especially true for Aboriginal young people.

Placements for Young People in Care

The availability of placements that support survival, security, and development is crucial to promote positive outcomes for young people in Ministry care.
Under the Matters to be Considered (i) the *Child, Youth and Family Enhancement Act* states that any decision concerning the placement of a child outside the parental home should take into account:

* The benefits to a child of a placement within the child's extended family,
* The benefits to the child of a placement within or as close as possible to his or her home community,
* The benefits to the child of a placement that respects the child's familial, cultural, social, and religious heritage,
* The benefits to the child of stability and continuity of care and relationships,
* The mental, emotional, and physical needs of the child and the child's mental, emotional, and physical stage of development, and
* Whether the proposed placement is suitable for the child.

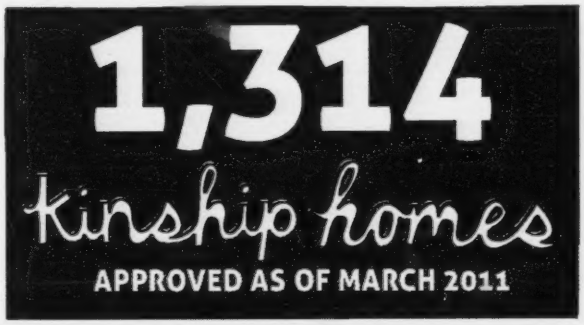
The ability to promote and retain appropriate placements is a significant challenge for the Ministry. This is consistent with other jurisdictions in North America.

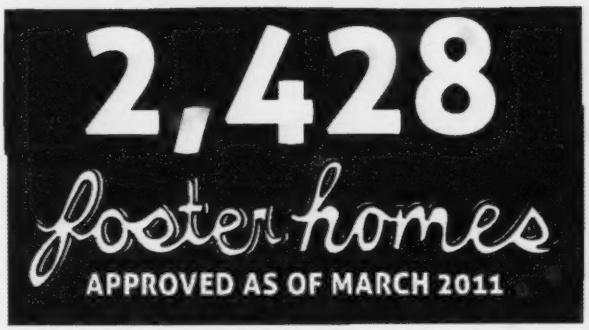
Placement is one of the most frequent advocacy issues addressed by the Child and Youth Advocate. Young people often call the office because their placements do not meet their needs, do not allow them to maintain a connection to their community or location, or are frequently changed without taking into account their need for stability and continuity of care.
Appropriate placements are important to young people for many reasons, including their concern for continuity of relationships, stability, and consistent care. An appropriate placement often lessens the chances of multiple moves while in care. Young people often report a sense of loss and feel as though they lack control over what is happening in their lives while transitioning from one place to another. Placement moves also disrupt connections and relationships that the young person has established with school, friends, and community.

Frequent placement moves while in care also raise significant challenges in the short and long terms: inability to settle into school, difficulties sustaining relationships with peers and adults, a sense of loss and grief, behavioural problems, homelessness, unemployment in adulthood, health problems, and more difficulty adjusting socially.

There is a need to recruit, retain, and train appropriate foster- and kinship-care providers. Young people need to receive services that optimize their capacity for success and increase their chances of moving towards a stable placement and sense of permanency.

While the Child and Youth Advocate acknowledges that the Ministry has consistently invested in creating and maintaining placements for young people, appropriate placements remains a significant challenge and increased efforts are needed. We urge the Ministry to increase their efforts to recruit and retain appropriate caregivers, through enhanced training and strengthened ongoing support. We strongly recommend that the Ministry focus their efforts on finding ways to place young people appropriately and to increase continuity for young people in care, so there are fewer unplanned placement moves for young people.





School Completion

Young people involved with the Ministry often have increased barriers to not only school completion but also in all the areas of successful academic achievement. Educational attainment can impact opportunities throughout the young person's life. Education provides opportunity for increased employment prospects and decreases the likelihood of unemployment and financial instability. Young people who graduate high school also have been found to have higher family functioning and health status. School completion is one of the cornerstones of positive identity development and increases well-being factors, such as housing, social supports and meaningful roles in society.

In response to this issue, the Ministry has worked collaboratively with the Ministry of Education to create the Provincial Protocol Framework (PPF) in an effort to increase planning and problem solving for young people in care.

The PPF supports school success for young people in care and was ratified by the Deputy Ministers of the Ministries of Children and Youth Services and Education on September 10, 2010. Evaluation of the four demonstration sites that field-tested the draft PPF in 2008–09 indicated that those involved felt it made a difference and that it offered potential in fostering school success for the young people involved. The evaluation also found "improved working relationships" and "increased information-sharing among schools, caseworkers, caregivers and participating children and youth" to be positive outcomes of the PPF processes.

Phased implementation of the PPF began in September 2010 and will continue over three years. As a part of the PPF, 10 regional agreements in place across the province guide the working relationship between school board and Child and Family Services Authority (CFSA) staff at a local level. Regional partners determined how they will conduct collaborative core team meetings to develop Success in School plans with the young people who they jointly serve and support. According to a recent questionnaire completed by point persons in school authorities and the CFSAs, five of six regions reporting on their experiences with implementing the PPF this past school year found that they were better able to support success in school. Evaluation by way of youth, caregiver, and staff surveys and questionnaires will provide insight in the upcoming year as to the impact of the PPF on partnership relationships and school outcomes for young people in care.

The second year of implementation in 2011–12 will increase the number of young people in care and their caregivers who are involved in developing Success in School plans. The Ministries of Children and Youth Services and Education continue to monitor implementation, to support the partnering CFSA and school authority staff with orientation sessions and materials, and to help address issues as they arise. Policy and practice documents are being amended to reflect the change in relationships and methods of working together to support ongoing implementation of the PPF.

Over time, we expect improved educational outcomes such as Provincial Achievement Test results, school dropout rates, and high school completion rates for young people in care. However, the anecdotal evidence of successes for students in care and the adults who support them suggests that the PPF is a good start in raising the educational attainment for young people in care in Alberta.

systemic ISSUES

Part 2 provides updates on the systemic issues reported on in previous annual reports.

PART 2 – SYSTEMIC ISSUES FROM PREVIOUS ANNUAL REPORTS

Below is a summary of the systemic issues presented in the 2009–10 annual report, including the following:

* The Child and Youth Advocate's recommendations for addressing the issue,
* The Ministry of Children and Youth Services' response to each issue,
* The Ministry's status update on work completed during the reporting year to address each issue, and
* The Advocate's comment about the progress made.

Signing of Agreements by Young People with Impaired Capacity: 2009–10

The Child and Youth Advocate is concerned that young people, particularly aged 18–22, are entering into agreements for support and financial assistance without being thoroughly assessed to determine their competency to negotiate services for themselves, their capacity to understand the terms and conditions of the agreement they are entering into, or their ability to make informed decisions.

The Advocate's Recommendation

* Develop clear policy direction to address situations where a young person over 18 years old is not competent to enter into an agreement but still requires services.
* Discuss the issue at the Provincial Enhancement Table.

Ministry Response

Young people must understand what it means when they enter into an agreement with the Ministry. Caseworkers should assess the capacity of the young person to enter into such an agreement and establish links between the young person and appropriate adult services and supports.

Status

A policy requiring caseworkers to determine if youth aged 18–22 have the capacity to understand agreements that they may enter into was finalized at the end of March 2011. Implementation of the policy, with appropriate training, is targeted for early fall 2011. The policy change will be discussed with Child and Family Service Authority staff and Delegated First Nations Agency staff at the Provincial Enhancement Table.

The Ministry will inform the Office of the Child and Youth Advocate when the implementation plans are finalized.

Progress

The Ministry has responded to the Child and Youth Advocate's concerns by developing a policy and training in an effort to ensure that young people can process all information related to the agreement. The next important step is implementation of the policy and delivery of the training.

ONCE THE POLICY IS IMPLEMENTED, THIS SYSTEMIC ISSUE WILL BE RESOLVED.

Insufficient Use of Historical Information to Inform Decision-making: 2009–10

The Child and Youth Advocate is concerned that information about a child or youth may be overlooked in decision-making because some information is not easily locatable due to the volume of information, and because information is kept in both paper and electronic records.

The Advocate's Recommendation
Determine how to identify and bring forward historical health, educational, and family/placement information on case files to make it more available to caseworkers.

Ministry Response
It is important that staff can easily access all information that is available on a child or youth to inform their decision-making. Current policy requires caseworkers to review both paper and electronic files when conducting assessments and at key decision points.

Status
The Child Youth Information Module (CYIM), an electronic database currently used within the Ministry, provides information summaries regarding placements. The Director has communicated at the Provincial Enhancement Table and to all Child and Family Service Authority/Delegated First Nation Agency staff that caseworkers should review as much information as possible at key decision-making points. The Ministry believes that the new Intervention Services Information System (ISIS) electronic database, currently under development, will provide more efficient access to historical information.

ISIS, as a more comprehensive electronic system, should help bring historical information forward; but the paper file will continue to be considered the official document. In preparation for ISIS, there will be no enhancements to CYIM.

Progress
The Ministry has communicated expectations to use all available information when making decisions about a child or youth and has continued work toward implementing ISIS to help bring historical information forward.

Progress has been made. However, until ISIS is fully implemented, the amount of historical information will not be known.

Kinship Care Placements: 2008–09

The Child and Youth Advocate is concerned about non-compliance with existing policy about the approval and ongoing support of kinship care homes.

The Advocate's Recommendation

* Rewrite policy to include the recommendations of the *Kinship Care Report*.
* Improve the monitoring of compliance with policy regarding recruitment, selection, training, and ongoing support of kinship care homes.

Ministry Response

Kinship care is a valuable form of family-based care for children. Careful monitoring of placements and the provision of a broad range of supports to caregivers are necessary to meet the needs of children and caregivers and ensure the safety and well-being of our children.

Status

The Ministry accepted all five recommendations of the *Kinship Care Report*. Discussions have occurred with field staff regarding the report and a revised policy will be rolled out in fall 2011 in response to three of the recommendations. Feedback from the Children and Youth Services' Legal Services department is currently being incorporated into the policy. Current policy requirements regarding approval of kinship homes are reinforced through ongoing messaging to the Provincial Enhancement Table. In response to the other two recommendations, training for kinship care providers is being piloted and cross-ministry consultations regarding risk assessments are underway. For more information regarding the *Kinship Care Report*, visit www.child.alberta.ca/home/595.cfm.

One requirement for a kinship home to be approved is to have adults in the kinship home undergo a criminal records check. To assist in reducing delays, collaborative work is being done with Calgary Police and surrounding RCMP to reduce the amount of time to process criminal records checks. The results of the pilot in Calgary will help inform how the practice can be applied provincially with municipal police and RCMP.

Orientation for kinship care providers has been developed and piloted in Tribal Chiefs East and West, Region 10, and Region 3. Region 6 is currently piloting the training. A Handbook for Kinship Care Providers has also been developed. The new Orientation to Kinship Care Training and the Handbook for Kinship Care Providers will be implemented provincially along with implementation of the new Enhancement Act Policy Manual.

Progress

The Child and Youth Advocate has received and reviewed the policy and handbook, which address the recommendations made in the *Kinship Care Report*. The Child and Youth Advocate continues to recommend improved monitoring of these policies to ensure that young people receive appropriate kinship care.

ONCE THE POLICY IS IMPLEMENTED, THIS SYSTEMIC ISSUE WILL BE RESOLVED.

Young People with Complex Needs: 2008–09

The Child and Youth Advocate is concerned that the Children and Youth with Complex Needs (CYCN) initiative is not working effectively for young people in care who have complex and special needs.

The Advocate's Recommendation
Undertake a comprehensive review of the CYCN.

Ministry Response
The CYCN initiative, led by the Ministry of Education, focuses on collaborative planning and service coordination for children and youth who require significant services and supports from more than one ministry due to the unique nature and severity of their needs.

Status
The Ministry of Child and Youth Services (the Ministry) continues to work collaboratively with its partnering ministries (Education, and Health and Wellness) to support and promote the CYCN and improve data collection. The CYCN offers a single point of entry for children and families, including children in care, to access and coordinate services from multiple ministries.

To increase awareness of CYCN, an article was posted in the May 24, 2011, issue of the *GoA Connector*. An email was also sent to CFSA CEOs on June 13, 2011, to provide information about CYCN and ask that they remind staff to refer cases to CYCN where appropriate. CYCN representatives from the Ministries of Child and Youth Services and Education presented to the Provincial Enhancement Table to raise the profile of this program among intervention staff. The Ministry will continue to ensure children in care have access to the supports they need and that caseworkers are knowledgeable.

CYCN is an additional resource for CFSA staff to enhance services to children with complex needs. The Director has identified that CYCN has been used appropriately by CFSA staff. The Ministry also supports other initiatives aimed at providing collaborative services to children and youth with complex needs, such as Success in School for Children and Youth in Care, and Setting the Direction.

Progress
Issue resolved. The Ministry continues to work collaboratively with partnering ministries to promote the CYCN. Statistics show that children and youth in the care of the Director are benefiting from this approach to service planning.

Investigation of Abuse Allegations Against Staff of Government-Run Residential Facilities: 2008–09

The Child and Youth Advocate expresses concerns about inconsistency in practice around the investigation of allegations of maltreatment of a child in care made against staff in government-run facilities.

The Advocate's Recommendation
Develop policy to identify and address the special considerations that need to be made in the investigation process when allegations of abuse are made against employees in a government-run facility.

Ministry Response
Reports of the mistreatment of a child or youth in care are taken seriously and dealt with immediately. Policy in this area is frequently reviewed to ensure that it reflects current best practices.

Status
A draft policy to address the investigation of allegations of abuse of a child in care, regardless of the type of placement/facility, is complete and will be sent for legal review in June 2011. The new policy speaks to a comprehensive process of reviewing safety concerns to ensure child safety in a wide variety of placements, including government-run institutions. A specific policy relating to government-run facilities was not deemed necessary due to the comprehensive nature of the policy that was developed and the human resources policies that are currently in place.

Progress
The Child and Youth Advocate's position is that there are special considerations inherent in investigations of government-run facilities and that administrative integrity must be protected. This benefits both young people and the facility. The Ministry has clarified the roles and responsibilities during the investigation process in the updated policy titled *Assessment of Care Concerns Involving a Care Provider.*

ONCE THE POLICY HAS BEEN IMPLEMENTED THIS SYSTEMIC ISSUE WILL BE RESOLVED.

Restrictive Procedures and Intrusive Measures: 2004–05

The Child and Youth Advocate is concerned about the use of restrictive procedures and intrusive measures and reiterates the recommendations made in the 2008–09 Annual Report.

The Advocate's Recommendation

* Train and support service providers in using the least restrictive or intrusive means of managing young people in their care.
* Develop a policy framework that defines "restrictive procedures" and "intrusive measures" and considers alternatives to restrictive procedures and intrusive measures and addresses a system of accountability.

Ministry Response

The inappropriate use of restrictive procedures is unacceptable, and clear direction for acceptable practice in the area is provided to staff working in group care settings. The Residential Facilities Licensing Regulation addresses the use of restrictive procedures; current policy supports the regulation and provides additional direction to staff.

Status

The Ministry is working collaboratively with the Office of the Child and Youth Advocate on this issue. A cross jurisdictional review of practice in this area has been completed. Current policy is being strengthened to clarify terminology and provide direction in best practice regarding restrictive procedures and intrusive measures. The Ministry's timeline for introduction and implementation of the policy, with appropriate training, has been revised and is targeted for fall 2011.

This policy adheres to best practice standards, which were reflected in the cross-jurisdictional report commissioned by the Office of the Child and Youth Advocate. We participated in each step of the process.

Progress

The Ministry has responded to this issue by developing policy that defines both "restrictive procedure" and "intrusive measure". The Ministry has accepted the Child and Youth Advocate's recommendations and has made efforts to move forward towards implementation. The Child and Youth Advocate will continue to work with young people affected by this issue and to be involved on a Ministry level, as appropriate.

ONCE THE POLICY IS IMPLEMENTED, THIS SYSTEMIC ISSUE WILL BE RESOLVED.

systemic ISSUES

Part 3 identifies 2010–11's systemic issues.

PART 3 – 2010-11 SYSTEMIC ISSUES

Disproportion of Aboriginal Children in Care

There is a compelling and urgent need to reduce the disproportionate number of Aboriginal young people in care in Alberta.

The disproportionate number of Aboriginal young people in Ministry care is increasing, and the overrepresentation of Aboriginal young people in child intervention caseloads has grown, despite considerable efforts of the Ministry and Aboriginal leaders to address this issue. In fact, the disparity between the number of Aboriginal young people in care and their non-Aboriginal peers is larger now than it has ever been in Alberta. For example, between 2000 and 2010, the number of Aboriginal young people in care increased by 50%, while at the same time, the number of non-Aboriginal young people in care decreased by 15%.

This is not a new issue. Overrepresentation of Aboriginal young people in child welfare has been an issue for many years both in Alberta and in other provinces. In Alberta, Aboriginal young people currently make up about 9% of the total youth population[17], yet they make up 67% of the children in care. This is significantly greater than the proportion of Aboriginal young people in care for Canada overall, which is about 41%.[18]

The challenges connected to this issue are large and complex. In recent years, it has been a high priority for the Ministry and numerous initiatives have been introduced to address it. Even with these efforts, the disproportionate number of Aboriginal young people in care continues to grow.

Background

Of Canadian provinces, Alberta has the third-largest population of Aboriginal people (First Nations, Métis, and Inuit people) and is home to the largest population of Métis people in the country. As well, Aboriginal people in Alberta are one of the youngest and fastest growing population groups in Canada.[19] In Alberta, over 44.3% of the Aboriginal population is under 19 years of age compared to only 27.5% of the non-Aboriginal population.[20]

It is important to continue to acknowledge the impact that Canada's history of colonization, residential schools, and child welfare has had on the lives of Aboriginal people. The continued overrepresentation of Aboriginal young people in Ministry care is described by many as one of the results of this history, both in Canada and in Alberta.

In 2010, the Canadian Council of Provincial Child and Youth Advocates, in which Alberta is an active member, completed a position paper called *Aboriginal Children and Youth in Canada: Canada Must Do Better*. In speaking to the issue of Aboriginal children in the child welfare system, it stated, "The causes of this overrepresentation are complex, but there is certainly an element of systemic disparity in the investigation, removal, and breakdown of Aboriginal families to warrant new strategies more sensitive to these considerations."

The Ministry of Children and Youth Services (the Ministry) has undertaken initiatives, partnerships, and agreements that highlight an ongoing commitment to improving services to Aboriginal children and families.

17 Aboriginal Affairs and Northern Development Canada: Implementation Evaluation of the Enhanced Prevention Focused Approach in Alberta for the First Nations Child and Family Services Program. http://ainc-inac.gc.ca/ai/arp/aev/pubs/ev/fcf/fcf-eng.asp

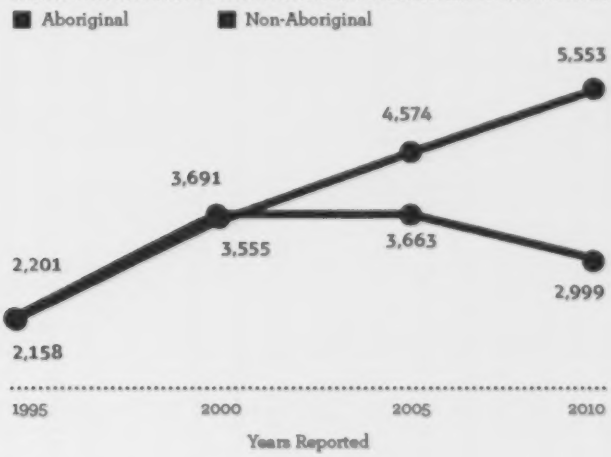
18 Blackstone and Trocme. "Community- based Child Welfare for Aboriginal Children: Supporting Resilience through Structural Change."

19 Statistics Canada. Projections of the Aboriginal Populations, Canada, Provinces and Territories 2001 to 2017. Ottawa, Statistics Canada, 2005.

20 Alberta Chamber of Resources: Aboriginal Programs Project.

In recent years, the Ministry has focused on recruiting Aboriginal caregivers to foster and maintain relationships with family, community, and culture for young people. As well, the Ministry has responded to the recommendations made in the Child Intervention Review Panel (2010) by increasing focus on developing and delivering services, building the capacity of service providers and clarifying roles and responsibilities among federal, provincial and First Nations partners. The Minister initiated "Gathering Today for our Aboriginal Children's Future",[21] which has prompted work towards establishing a memorandum of understanding (a tripartite process that includes the Ministry, Indian and Northern Affairs Canada, and Alberta First Nations), the creation of an Assistant Deputy Minister for Aboriginal Policy and Initiatives in the Ministry, developing cross-cultural sensitivity training, discussing the role of the Band Designate, and collecting meaningful statistics on children in care and program outcomes.

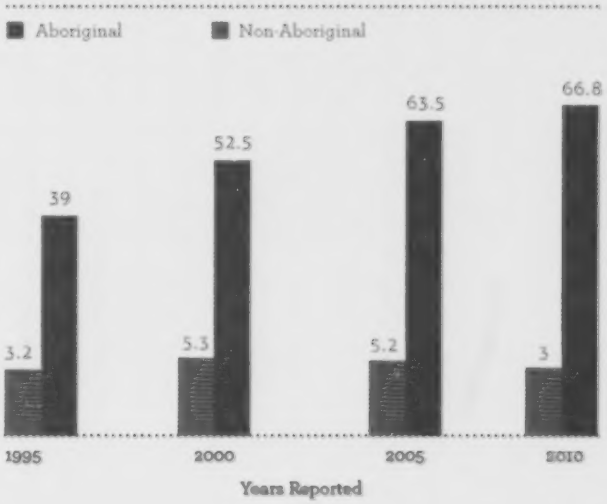
ABORIGINAL AND NON-ABORIGINAL CHILDREN IN MINISTRY CARE IN ALBERTA



What we found

The disparity in Alberta between Aboriginal young people and non-Aboriginal young people in Ministry care continues to grow. For example, in 1995 and in 2000, about 50% of all young people in care in Alberta were of Aboriginal ancestry. In 2005, that number had grown to 55%. By 2010, that number had grown to almost 65%, and as of March 2011, the proportion of Aboriginal children in care has increased to 67%.[22 23]

ABORIGINAL AND NON-ABORIGINAL CHILDREN IN MINISTRY CARE IN ALBERTA, RATES PER THOUSAND



21 A series of meetings with the directors of Delegated First Nations Agencies, Aboriginal leaders, Child and Family Services Authority co-chairs and senior Ministry staff.

22 Alberta Health and Wellness population estimates were used for the total child population (aged 0–17 years) in 1995, 2000, 2005, and 2010. http://www.ahw.gov.ab.ca/IHDA_Retrieval/selectSubCategoryParameters.do?command=doRefine

23 Ministry data was used for the number of Aboriginal and non-Aboriginal children in care.

As well, in 2010 for every 1,000 non-Aboriginal young people in Alberta, there were about three non-Aboriginal young people "in Ministry care."[24] During the same time period, for every 1,000 Aboriginal young people in Alberta, there were almost 67 Aboriginal young people in Ministry care.[25] This suggests that Aboriginal young people in Alberta are far more likely to be in government care than their non-Aboriginal peers.

Effectively serving Aboriginal young people involved with the Ministry is complex and needs to involve multiple stakeholders working together with clear goals and effective strategic action. The relationship between Ministry leaders and Aboriginal leaders, along with sustained commitment to action, is critically important.

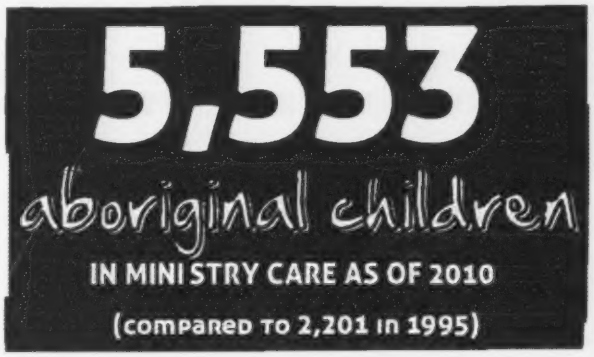
Why it is important to young people

Well-being, developmental milestones, and the ability to develop a healthy positive identity are critical for all young people. For those who have experienced disruption and difficulty in their families, especially where there has been Ministry intervention, support to develop these attributes is even more essential. It is also critical to ensure that Aboriginal young people remain connected to their families, communities, and Nations because their unique cultures and central to their ability to know who they are, where they belong, and to develop healthy, positive identities.

What needs to be done

We recommend that the Ministry takes action, developed in partnership with Aboriginal stakeholders, that builds on work to date, and specifically addresses safely reducing the number of Aboriginal young people coming into Ministry care, and for those who do, reducing the amount of time in care that builds on work to date, and starts reversing the upward trend for Aboriginal young people in ministry care. As well, for those Aboriginal young people who are in care, this action needs to include an increased commitment to their ongoing connection and involvement with their families, communities, and Nations and support for participation in their cultures and traditions.

There remains a question about what the Office of the Child and Youth Advocate will do to fulfil our role and participate in advancing the interests of Aboriginal young people. We will help to address problems and in working towards concrete results for Aboriginal young people involved with the Ministry. We will look at successes and identify ways to enable learning from those successes. Finally, we will find ways to meaningfully report on this issue and advance our own level of engagement with Aboriginal stakeholders, so we can better align with the interests of Aboriginal young people involved with Ministry services.



24. Children who are in need of protection and have one of the following legal statuses: Emergency Apprehension; Apprehension Order; Order to Extend Custody/ Temporary Guardianship Order to three years; Custody Agreement with Child; Temporary Guardianship Order; Interim Custody Order; Permanent Guardianship Agreement; or Permanent Guardianship Order
25. Estimated 0.5% growth in proportion for 2010 is consistent with growth between 2001 and 2006.

Capacity-Building Through Rights Education

Informing young people of their rights and helping them learn about and exercise these rights is central to the work of the Office of the Child and Youth Advocate. Advocacy work is characterized by rights education (helping young people understand what rights they have and how to exercise these rights) and problem-solving (helping young people use the rights they have to remedy problems they identify that are related to, or stemming from, being in care). A particular advocacy strategy is to make sure young people have the opportunity to participate and be heard when decisions about them are being made.

Background

The *Child, Youth and Family Enhancement Act*, in accordance with sections 2.1 and 2(d) of the (*Enhancement Act*) and articles 3 and 12 of the United Nations Convention on the Rights of the Child (the CRC), imposes obligations on a Director to ensure that young people are informed of their procedural rights.

"Procedural rights" set out the processes by which substantive rights are exercised and can be enforced. Examples of procedural rights for a young person involved with the Ministry are to have their rights explained to them and to be involved with the decisions that are made about them. Procedural rights can only be realized if young people understand their substantive rights.

"Substantive rights", as the name implies, are the essence of young person's rights. Examples of these rights include special protection measures and assistance, and access to services such as education and health care.

An example of a procedural right is the right to ask for an administrative review of a Director's decision, such as a placement. The right to have stability, permanency and continuity of care, and relationships considered as part of the decision-making process is a substantive right.

What we found

Young people often advise advocates that they have not been informed of their procedural rights, for example, of their right to review a decision made about their lives. Young people also express concerns that they have not been involved in decision-making and are unaware of their right to participate in decisions made about them.

Currently, the Ministry provides each young person in care with a booklet that outlines their procedural rights. The booklets were developed in 2010–11 as a joint effort between the Office of the Child and Youth Advocate and the Ministry of Children and Youth Services. Current Ministry policy on procedural rights is found in section 7.7 of the Enhancement Act Policy Manual.

The Office of the Child and Youth Advocate collected feedback from caseworkers and young people when the new rights booklets were being created. This feedback indicated that current Ministry policy does not provide enough guidance to caseworkers regarding how to build the capacity of young people in the domains of problem-solving and rights education. It also indicated that the potential negative consequences of not involving young people and allowing them to exercise their rights were not fully explained. Caseworkers agreed that rights education with young people in care is a continuous process.

Why this is important

Beyond the requirement of the Ministry to inform young people of their procedural rights, as required by the Enhancement Act and CRC, teaching young people about their substantive and procedural rights fosters the ability to use problem-solving skills. Promoting problem-solving abilities would assist young people in their personal development and help them develop the necessary skills to meaningfully engage in the decision-making process. It would help them develop an ability to identify what is important to them.

What needs to be done

The process of informing young people about their procedural rights requires ongoing discussion and increasing the capacity of the Ministry to support young people to understand and exercise their rights. The Child and Youth Advocate recommends implementing a comprehensive strategy that includes:

* Further research into the benefits of building capacity, involving young people in decision-making, and informing them of their rights,
* A compendium for training regarding the procedural rights booklets, to help caseworkers fully understand their legal obligations and the practical benefits of involving young people in decisions and developing their capacity to problem-solve,
* Include a module in Delegation training on substantive and procedural rights for caseworkers, including strategies on engaging young people to learn about and use these rights in their day-to-day lives,
* Reinforce standard points in involvement with young people when discussions of rights should occur,
* Ongoing messages and key learning provided by the Ministry to reinforce the importance of knowledge-building around rights education.

Mandatory Notifications

Background

Young people receiving services under the *Child, Youth and Family Enhancement Act* (*Enhancement Act*) or *Protection of Sexually Exploited Children Act* (*PSECA*), or the people involved in their lives, can contact the Office of the Child and Youth Advocate at any point in their involvement for advocacy supports. There are times when it is mandatory for a young person to come to the attention of the Child and Youth Advocate. As indicated in Enhancement Act Policy section 1.7.2, caseworkers are required to notify the Office of the Child and Youth Advocate through mandatory notifications when one of the following four situations arises for a child or young person (quoted in part from the Enhancement Act Policy Manual):

* A young person disagrees with a significant decision that pertains to them. For instance, the young person may disagree with a decision about placement, such as the type of placement, a move, or a respite placement.
* The needs of a child are not being met. For example, cultural, religious, or spiritual connections may not be maintained or supported through activities or involvement.
* Significant persons in the child's life have competing perspectives that are not focused on the child. As an example, the child may believe that he or she is not being heard.
* An allegation of abuse or neglect of a child in care is made, such as inadequate supervision, or failure to provide basic needs or medical attention.

The purpose of mandatory notifications is to make sure the Child and Youth Advocate is aware of concerns in these areas, that the Director is aware of the concerns, and that the young person has advocacy services at critical points in his or her life.

What we found

The policy sets out the parameters on when and how to inform the Child and Youth Advocate of these situations, via mandatory notifications. For "a young person disagreeing with a significant decision" and "significant persons having competing perspectives", Enhancement Act Policy has determined that the need to report will be determined on a case-by-case basis. "Unmet needs" and "allegations of abuse in care" require an immediate report to the Child and Youth Advocate.

There is no measure to ensure consistent submission and review of these notifications or circumstances throughout the Department, Child and Family Services Authorities (CFSAs), and Delegated First Nation Agencies (DFNAs).

Enhancement Act Policy also identifies that one of the main purposes of mandatory notifications is to ensure the Director is aware of these concerns. However, the Ministry does not currently have a process to collect this information at the time of the occurrences, and in most circumstances receives the information from the Child and Youth Advocate. Beyond this notification, and attention on individual cases, the Ministry does not currently collect this information in a way that enables tracking and analysis and allows for further inquiry into common themes, or for quality assurance on a Ministry level.

Why it is important

Using mandatory notifications for quality assurance would enable the Ministry to use young people's experiences to track occurrences and identify themes, allowing the Ministry to produce systemic interventions and necessary changes to the system. This would enhance the Ministry's ability to respond to and prevent future occurrences. Using this key information and responding in a meaningful capacity would enhance services and improve young people's experiences of the Ministry.

What needs to be done

The Child and Youth Advocate recommends that the Ministry do the following:

* Set up a system by which mandatory notifications are tracked, monitored, and aggregated internally.
* Analyze the information for themes and trends.
* Use the information to inform policy and practice.
* Internally monitor the adherence to mandatory notifications policy and procedures province-wide to ensure the mandatory notifications protocol is consistent throughout DFNAs and CFSAs.

The Office of the Child and Youth Advocate will continue to assess each mandatory notification case and provide individual advocacy, as needed.

APPENDICES

Appendix A – Legislation Governing the Child and Youth Advocate

An excerpt from the *Child, Youth and Family Enhancement Act* pertaining to the office of the Child and Youth Advocate. This excerpt is taken from the Revised Statutes of Alberta:

Office of Child and Youth Advocate

3(1) The Lieutenant Governor in Council may, on the recommendation of the Minister, appoint a Child and Youth Advocate, who shall hold office for a term not exceeding 5 years.

(2) The Minister may authorize and provide for the payment of the remuneration and expenses of the Child and Youth Advocate and for the office and staff of the Child and Youth Advocate.

(3) The Child and Youth Advocate shall

- **(a)** advise the Minister on matters relating to the welfare and interests of children who receive services under this Act or the *Protection of Sexually Exploited Children Act* and the provision of those services;
- **(b)** receive and review complaints or concerns that come to the attention of the Child and Youth Advocate respecting children who receive services under this Act or the *Protection of Sexually Exploited Children Act*;
- **(c)** represent the rights, interests and viewpoints of children who receive services under this Act or *the Protection of Sexually Exploited Children Act*;
- **(c.1)** if the Child and Youth Advocate considers it appropriate to do so, appoint, or cause to be appointed, lawyers to represent children who are receiving services
  - i. under this Act, other than services under Part 2, or
  - ii. under the *Protection of Sexually Exploited Children Act*;
- **(d)** repealed 2008 c31 s3;
- **(e)** perform additional duties and functions that are conferred on the Child and Youth Advocate by the regulations or that are from time to time assigned to the Child and Youth Advocate by the Minister;
- **(f)** submit a report to the Minister every 3 months on the Child and Youth Advocate's activities and observations;
- **(g)** prepare and submit annual reports to the Minister respecting the exercise of the duties and functions of the Child and Youth Advocate.

(4) On receiving a report under subsection (3)(g), the Minister shall lay a copy of the report before within 15 days after the commencement of the next sitting.

(5) For the purpose of performing the duties and functions of the Child and Youth Advocate, the Child and Youth Advocate may

- **(a)** communicate with and visit a child who is receiving services under this Act or the *Protection of Sexually Exploited Children Act* or a guardian or other person who represents the child;
- **(b)** have access to information relating to a child that is in the possession of a director under this Act or under the *Protection of Sexually Exploited Children Act* or other person or agency providing services to a child on behalf of a director under this Act or under the *Protection of Sexually Exploited Children Act*;

(c) at the request of a child who is receiving services under this Act or the *Protection of Sexually Exploited Children Act*, the Minister or any person acting on the child's behalf, review and make recommendations regarding any matter relating to the provision of services to the child under this Act or the *Protection of Sexually Exploited Children Act*;

(d) provide information relating to, speak on behalf of and otherwise represent a child who is receiving services under this Act or the *Protection of Sexually Exploited Children Act* when major decisions relating to the child are being made under this Act or the *Protection of Sexually Exploited Children Act*;

(e) on the initiative of the Child and Youth Advocate or at the request of a child who is receiving services under this Act or the *Protection of Sexually Exploited Children Act*, assist in appealing or reviewing a decision of a director relating to the child;

(f) provide assistance and advice to an Appeal Panel or a Court with respect to a child who is receiving services under this Act or the *Protection of Sexually Exploited Children Act*.

(6) The Child and Youth Advocate may delegate any duty or function conferred or imposed on the Child and Youth Advocate under this Act, the *Protection of Sexually Exploited Children Act* or the regulations under either Act in respect of a child

(a) to a person employed or engaged in the administration of this Act or the *Protection of Sexually Exploited Children Act*,

(b) to a person who provides care to the child, represents the child or is concerned about the welfare of the child, or

(c) repealed 2008 c31 s3.

Privileged Information of a Child

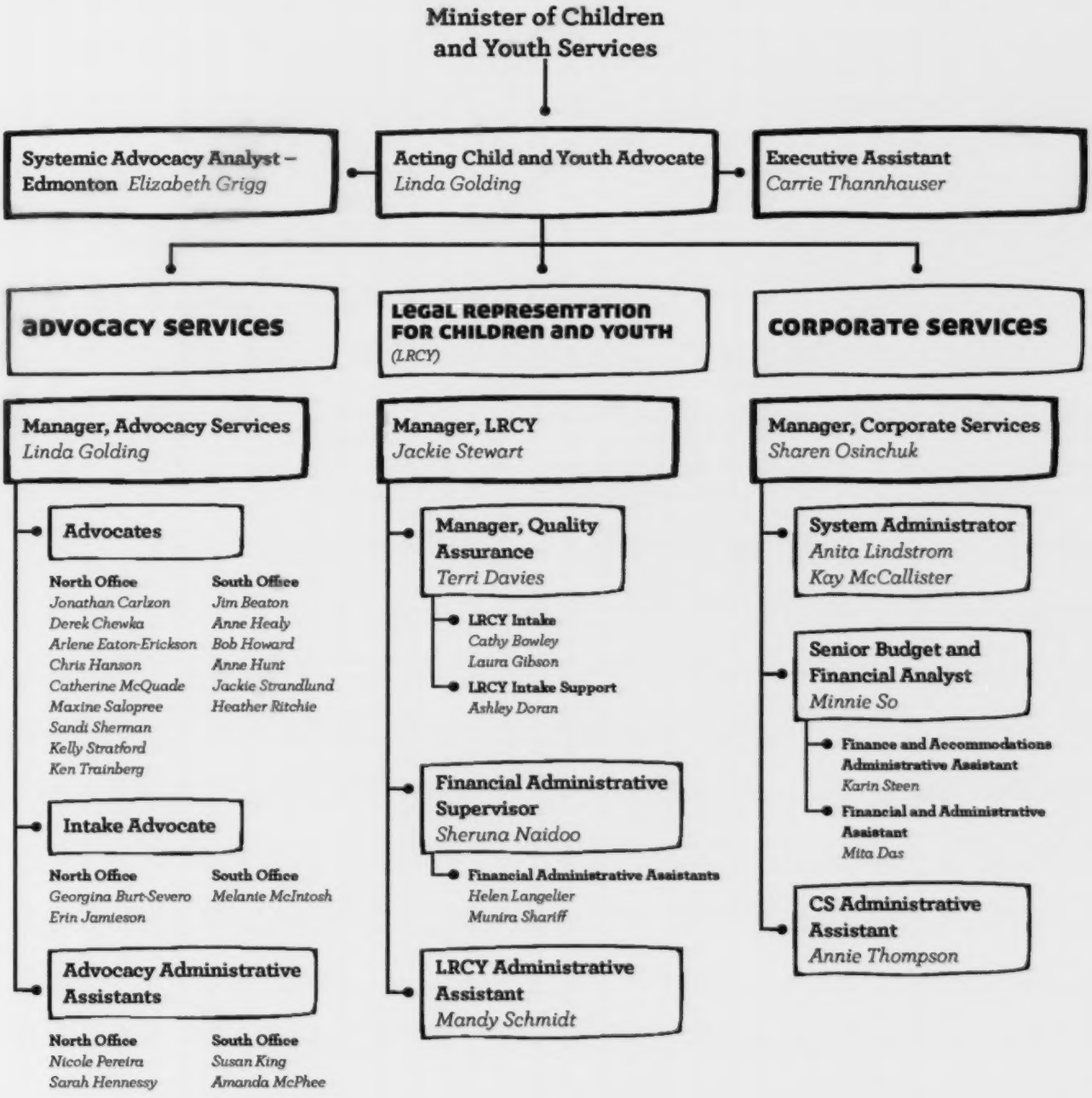
126.01(1) Despite section 126(1), all information provided by a child to the Child and Youth Advocate in confidence and all documents and records created as a result of confidential communications between a child and the Child and Youth Advocate are the privileged information, documents and records of the child and are not admissible in evidence in any action or proceeding before any court or an Appeal Panel or before any inquiry without the consent of the child.

(2) Despite subsection (1), the information, documents and records described in subsection (1) must be disclosed if disclosure is required by section 4 or directed by the Minister.

(3) If there is a conflict or inconsistency between this site and *The Freedom of Information and Protection of Privacy Act*, this section prevails.

APPENDIX B – ORGANIZATIONAL CHART 2010-11

As at March 31, 2011



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Legal Representation for Children and Youth

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